

Island Transportation Company, Inc. and Local
1702, United Paperworkers International Union,
AFL-CIO, CLC. Case 1-CA-28224

December 26, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

Upon a charge filed by the Union on April 25, 1991,¹ the General Counsel of the National Labor Relations Board issued a complaint on June 5, 1991, against Island Transportation Company, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge, the amended charge, and complaint, the Respondent has failed to file an answer.

On November 18, 1991, the General Counsel filed a Motion for Summary Judgment, with exhibits attached. On November 20, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that the General Counsel informed the Respondent on October 8, 1991, that if no answer was received by the Regional Office by the close of business on October 15, 1991, a Motion for Summary Judgment would be filed. The Respondent did not file an answer.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDING OF FACTS

I. JURISDICTION

At all times material, the Respondent, a corporation, with an office and a place of business in East Freetown, Massachusetts, has been engaged in the interstate transportation of freight services. Annually, the Respondent, in the course and conduct of these business operations, derived gross revenues in excess of \$50,000 for the transportation of freight and commodities from the Commonwealth of Massachusetts directly to points outside the Commonwealth of Massachusetts and performed services valued in excess of \$50,000 outside the Commonwealth of Massachusetts. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers, jockeys, jockey-mechanics, and mechanics employed by Respondent who service Respondent's account with Massachusetts Container Corporation in Marlboro, Massachusetts, but excluding all other employees, guards, and supervisors as defined in the Act.

Since on or about November 19, 1990, and at all times material, the Union has been the designated and recognized exclusive collective-bargaining representative of the employees in the unit under Section 9(a) of the Act for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment. This recognition has been embodied in a collective-bargaining agreement effective by its terms for the period November 15, 1990, through November 15, 1993.

On or about March 19, 1991, the Union, by letter, requested the Respondent to furnish the Union with the following information:

A). All shipping orders, bills of lading, shipping invoices and all other writings that indicate any and all deliveries and pick-ups made on behalf of Massachusetts Container Corporation, Connecticut Container Corporation or Nutmeg Corporation since Respondent began performing work for Massachusetts Container Corporation.

¹ The Union filed an amended charge on May 28, 1991.

- B). Payroll summaries for all bargaining unit members since Respondent began performing work for Massachusetts Container Corporation to the present, indicating for all employees total number of hours worked for each work-week, including what weeks employees did not work and what weeks employees have been laid-off for a full part or a part of an entire week or any part thereof [sic].

The information requested by the Union is relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of the unit employees. Since on or about March 19, 1991, and continuing to date, the Respondent has failed and refused to furnish the Union the requested information.

We find that Respondent, by its conduct, has failed and refused and is failing and refusing to bargain collectively with the Union and has thereby violated Section 8(a)(5) and (1).

CONCLUSIONS OF LAW

By failing and refusing to provide the requested information to the Union on and after March 19, 1991, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order that it cease and desist therefrom and take certain affirmative action designed to effectuate the purpose of the Act. This affirmative action will include ordering the Respondent to furnish the Union the information requested.

ORDER

The National Labor Relations Board orders that the Respondent, Island Transportation Company, Inc., East Freetown, Massachusetts, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with Local 1702, United Paperworkers International Union, AFL-CIO, CLC by refusing to furnish it with information necessary for, and relevant to, the Union's performance of its function as the exclusive collective-bargaining representative of the following unit:

All full-time and regular part-time drivers, jockeys, jockey-mechanics, and mechanics employed by Respondent who service Respond-

ent's account with Massachusetts Container Corporation in Marlboro, Massachusetts, but excluding all other employees, guards, and supervisors as defined in the Act.

- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) On request, bargain collectively with the Union by furnishing the Union with the following relevant and necessary information:

A). All shipping orders, bills of lading, shipping invoices and all other writings that indicate any and all deliveries and pick-ups made on behalf of Massachusetts Container Corporation, Connecticut Container Corporation or Nutmeg Corporation since Respondent began performing work for Massachusetts Container Corporation.

- B). Payroll summaries for all bargaining unit members since Respondent began performing work for Massachusetts Container Corporation to the present, indicating for all employees total number of hours worked for each work-week, including what weeks employees did not work and what week employees have been laid-off for a full part or a part of an entire week or any part thereof.

(b) Post at its facility in East Freetown, Massachusetts, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 1, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt, and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Local 1702, United Paperworkers International Union, AFL-CIO, CLC by refusing to furnish the Union with information necessary for, and relevant to, the Union's performance of its function as the exclusive collective-bargaining representative of the following unit:

All full-time and regular part-time drivers, jockeys, jockey-mechanics, and mechanics employed by us who service our account with Massachusetts Container Corporation in Marlboro, Massachusetts, but excluding all other employees, guards, and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exer-

cise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, furnish the Union with the following relevant and necessary information:

- A). All shipping orders, bills of lading, shipping invoices and all other writings that indicate any and all deliveries and pick-ups made on behalf of Massachusetts Container Corporation, Connecticut Container Corporation or Nutmeg Corporation since Respondent began performing work for Massachusetts Container Corporation.
- B). Payroll summaries for all bargaining unit members since Respondent began performing work for Massachusetts Container Corporation to the present, indicating for all employees total number of hours worked for each work-week, including what weeks employees did not work and what weeks employees have been laid-off for a full part or a part of an entire week or any part thereof.

ISLAND TRANSPORTATION COMPANY,
INC.